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WORLDWIDE SUBSIDY GROUP, LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

WORLDWIDE SUBSIDY GROUP, LLC,
a Texas Limited Liability Company,

Plaintiff,

v.

FÉDÉRATION INTERNATIONALE DE
FOOTBALL ASSOCIATION, and Does 1
through 20, inclusive,

Defendants.

Case No. 2:14-cv-00013-AB (JCx)

PROTECTIVE ORDER
[MODIFIED BY COURT]

ORDER

GOOD CAUSE APPEARING, the Court hereby approves this Protective Order, which modifies the Stipulation and proposed protective order in certain respects.

IT IS SO ORDERED.

Dated: October 26, 2017

/s/ Jacqueline Chooljian

Honorable Jacqueline Chooljian
UNITED STATES MAGISTRATE JUDGE

1 WHEREAS certain information and documents, including confidential, trade
2 secret or proprietary information, may be requested and produced in the above-
3 captioned action;

4 WHEREAS in order to facilitate the exchange of such confidential, trade secret,
5 or proprietary information and documents;

6 WHEREAS Plaintiff Worldwide Subsidy Group (“WSG” or “PLAINTIFF”),
7 and defendant Fédération Internationale de Football Association (“FIFA” or
8 “DEFENDANT”) (collectively, “the Parties”), by and through their respective counsel
9 of record, have stipulated materially as follows (“Stipulation”), and WHEREAS the
10 Court, having reviewed the Stipulation deems it appropriate to modify the proposed
11 protective order submitted therewith (“proposed protective order”) in certain respects,
12 the Court hereby orders as follows:

13 1. In this Protective Order, the words set forth below shall have the
14 following meanings:

- 15 a. “Proceeding” means the above-entitled proceeding.
16 b. “Court” means the Hon. Andre Birotte, Jr., the Hon. Jacqueline
17 Chooljian, or any other judge to which this Proceeding may be assigned, including
18 Court staff participating in the Proceeding.
19 c. “Confidential Material(s)” means any Document, Testimony or
20 Information as defined below designated as “Confidential” or “Confidential –
21 Attorney’s Eyes Only” pursuant to the provisions of this Protective Order. It shall
22 also mean any Document, Testimony or Information that has heretofore been labeled
23 “Confidential” in any other proceeding, including, but not limited to, proceedings
24 before the Copyright Royalty Board.

25 d. “Designating Party” means the Party that designates Materials as
26 “Confidential” or “Confidential – Attorney’s Eyes Only” pursuant to this Protective
27 Order.
28

1 e. “Disclose” or “Disclosed” or “Disclosure” means to reveal,
2 divulge, give, or make available Materials, or any part thereof, or any information
3 contained therein.

4 f. “Documents” means (i) any “Writing,” “Original,” and
5 “Duplicate” as those terms are defined by California Evidence Code Sections 250,
6 255, and 260, which have been produced in discovery in this Proceeding by any
7 person, and (ii) any copies, reproductions, or summaries of all or any part of the
8 foregoing.

9 g. “Information” means the content of Documents or Testimony.

10 h. “Testimony” means all depositions, declarations or other testimony
11 taken or used in this Proceeding.

12 i. “Designation” means any of the following, as defined for use
13 herein and subject to such limitations in this Protective Order: “Confidential,” or
14 “Confidential Attorney’s Eyes Only”.

15 2. The Designating Party shall have the right to designate as “Confidential”
16 any Documents, Testimony or Information that the Designating Party in good faith
17 believes to contain non-public information that is entitled to confidential treatment
18 under applicable law.

19 3. The Designating Party shall have the right to designate as “Confidential-
20 Attorney’s Eyes Only” only the non-public Documents, Testimony and Information
21 that the Designating Party in good faith believes would create a substantial risk of
22 serious financial or other injury, if Disclosed to another Party or non-Party, and that
23 such risk cannot be avoided by less restrictive means.

24 4. Any Confidential Material must be clearly designated before the
25 Document, Testimony or Information is Disclosed or produced; provided that the
26 failure to designate any Documents, Testimony or Information as Confidential
27 Material does not constitute a waiver of such claim, and any Document, Testimony or
28 Information is subject to the protections of this Protective Order from the time it is

1 designated and stamped with its appropriate Designation(s) in accordance with
2 paragraphs 2 or 3. The Designation(s) should not obscure or interfere with the
3 legibility of any information contained with the Confidential Material.

4 a. For Documents (apart from transcripts of depositions or other
5 pretrial or trial proceedings), the Designating Party must affix the legend of
6 “Confidential” or “Confidential – Attorney’s Eyes Only” on each page of any
7 Document containing such designated Confidential Material.

8 b. For Testimony given in depositions the Designating Party may
9 either:

10 i. identify on the record, before the close of the deposition,
11 Testimony to be designated “Confidential” or “Confidential Attorney’s Eyes Only” by
12 specifying all portions of the Testimony that qualify for such Designation(s); or

13 ii. designate on the record, before the close of the deposition,
14 the entirety of the Testimony at the deposition as “Confidential” or “Confidential
15 Attorney’s Eyes Only” before the deposition is concluded with the right to identify
16 more specific portions of the Testimony as to which protection is sought within 30
17 days following receipt of the deposition transcript. In circumstances where portions
18 of the deposition Testimony are designated for protection, the transcript pages
19 containing the designated Information may be separately bound by the court reporter,
20 who must affix to the top of each page the legend of the applicable Designation(s), as
21 instructed by the Designating Party.

22 c. For Information produced in some form other than Documents, and
23 for any other tangible items, including, without limitation, compact discs or DVDs,
24 the Designating Party must affix in a prominent place on the exterior of the container
25 or containers in which the Information or item is stored the legend stating the
26 applicable Designation(s). If only portions of the Information or item warrant
27 protection, the Designating Party, to the extent practicable, shall identify the portions
28 of the Information subject to the Designation(s).

1 5. The inadvertent production by the Parties or non-parties to the
2 Proceeding of any Document, Testimony or Information without a Designation, shall
3 be without prejudice to any claim that such item is subject to a Designation and such
4 Party or non-party shall not be held to have waived any confidentiality or rights by
5 such inadvertent production, either as to the specific information disclosed or as to any
6 other information relating thereto on the same or related subject matter.

7 a. Upon discovery of any inadvertent or unintentional disclosure of
8 Confidential Material, counsel for the Parties shall make all reasonable efforts to
9 mitigate any deleterious effects of such disclosure and shall cooperate to restore the
10 confidentiality of such disclosed information.

11 b. In the event that any confidential Document, Testimony or
12 Information is inadvertently produced without a Designation, the Party that
13 inadvertently produced the document shall give written notice of such inadvertent
14 production within twenty (20) days of discovery of the inadvertent production,
15 together with a further copy of the subject Document, Testimony or Information with
16 the Designation (the "Inadvertent Production Notice").

17 c. Upon receipt of such Inadvertent Production Notice, the Party that
18 received the inadvertently produced Document, Testimony or Information shall
19 promptly destroy the inadvertently produced Document, Testimony or Information
20 and all copies thereof, or, at the expense of the producing Party, return such together
21 with all copies of such Document, Testimony or Information to counsel for the
22 producing Party and shall retain only the Confidential Materials with the Designation.

23 d. Should the receiving Party choose to destroy such inadvertently
24 produced Document, Testimony or Information, the receiving Party shall notify the
25 producing Party in writing of such destruction within ten (10) days of receipt of
26 written notice of the inadvertent production.

27 e. This provision is not intended to apply to any inadvertent
28 production of any Information protected by attorney-client or work product privileges.

1 In the event that this provision conflicts with any applicable law regarding waiver of
2 confidentiality through the inadvertent production of Documents, Testimony or
3 Information, such law shall govern.

4 6. In the event that counsel for a Party receiving Documents, Testimony or
5 Information in discovery objects to a Designation with respect to any or all of such
6 items, said counsel shall advise counsel for the Designating Party, in writing, of such
7 objections, the specific Documents, Testimony or Information to which each objection
8 pertains, and the specific reasons and support for such objections (the “Designation
9 Objections”). The Parties shall then attempt in good faith to resolve the dispute.

10 a. To the extent that no resolution can be reached, Counsel for the
11 Designating Party shall have thirty (30) days from receipt of the written Designation
12 Objections to either (a) agree in writing to de-designate Documents, Testimony or
13 Information pursuant to any or all of the Designation Objections and/or (b) file a
14 motion pursuant to Local Rule 37-1 et seq. with the Court seeking to uphold any or all
15 designations on Documents, Testimony or Information addressed by the Designation
16 Objections (the “Designation Motion”).

17 b. Pending a resolution of the Designation Motion by the Court, any
18 and all existing Designations on the Documents, Testimony or Information at issue in
19 such Motion shall remain in place.

20 c. The Designating Party shall have the burden on any Designation
21 Motion of establishing the applicability of its Designation(s).

22 d. In the event that the Designation Objections are neither timely
23 agreed to nor timely addressed by a Designation Motion, then such Documents,
24 Testimony or Information shall be de-designated in accordance with the Designation
25 Objection applicable to such material.

1 7. Access to and/or Disclosure of Confidential Materials designated as
2 “Confidential” shall be permitted only to the following persons, subject to the limits
3 of the other paragraphs of this Protective Order:

4 a. Parties and employees, former employees, agents, representatives
5 or consultants of the Parties whose assistance counsel requests for purposes of this
6 Proceedings;

7 b. counsel for the Parties, including in-house counsel, their partners
8 and associates, and staff and supporting personnel of such attorneys, such as paralegal
9 assistants, secretarial, stenographic and clerical employees and contractors, and
10 outside copying services, who are working on this Proceeding (or any further
11 proceedings herein) under the direction of such attorneys and to whom it is necessary
12 that the Confidential Materials be Disclosed for purposes of this Proceeding. Such
13 employees, assistants, contractors and agents to whom such access is permitted and/or
14 Disclosure is made shall, prior to such access or Disclosure, be advised of, and
15 become subject to, the provisions of this Protective Order.;

16 c. outside experts or expert consultants consulted by the undersigned
17 Parties or their counsel in connection with the Proceeding, whether or not retained to
18 testify at any oral hearing; provided, however, that prior to the Disclosure of
19 Confidential Materials to any such expert or expert consultant, counsel for the Party
20 making the Disclosure shall deliver a copy of this Protective Order to such person,
21 shall explain its terms to such person, and shall secure the signature of such person on
22 a statement in the form attached hereto as Exhibit A prior to the Disclosure of
23 Confidential Materials. It shall be the obligation of counsel, upon learning of any
24 breach or threatened breach of this Protective Order by any such expert or expert
25 consultant, to promptly notify counsel for the Designating Party of such breach or
26 threatened breach;

27 d. any person who authored, received, saw or was otherwise familiar
28 with a document or thing marked “Confidential,” including any person otherwise

1 familiar with the Confidential Information contained therein, but only to the extent of
2 that person's prior familiarity with the Confidential Information;

3 e. court reporters and videographers in this Proceeding (whether at
4 depositions, hearings, or any other proceeding); and

5 f. the Court.

6 8. Access to and/or Disclosure of Confidential Materials designated as
7 "Confidential – Attorneys' Eyes Only" shall be permitted only to the following
8 persons:

9 a. Outside counsel for the Parties, their partners and associates, and
10 staff and supporting personnel of such attorneys, such as paralegal assistants,
11 secretarial, stenographic and clerical employees and contractors, and outside copying
12 services, who are working on this Proceeding (or any further proceedings herein)
13 under the direction of such attorneys and to whom it is necessary that the Confidential
14 Materials be Disclosed for purposes of this Proceeding. Such employees, assistants,
15 contractors and agents to whom such access is permitted and/or Disclosure is made
16 shall, prior to such access or Disclosure, be advised of, and become subject to, the
17 provisions of this Protective Order.;

18 b. outside experts or expert consultants consulted by the undersigned
19 Parties or their counsel in connection with the Proceeding, whether or not retained to
20 testify at any oral hearing; provided, however, that prior to the Disclosure of
21 Confidential Materials to any such expert or expert consultant, counsel for the Party
22 making the Disclosure shall deliver a copy of this Protective Order to such person,
23 shall explain its terms to such person, and shall secure the signature of such person on
24 a statement in the form attached hereto as Exhibit A prior to the Disclosure of
25 Confidential Materials. It shall be the obligation of counsel, upon learning of any
26 breach or threatened breach of this Protective Order by any such expert or expert
27 consultant, to promptly notify counsel for the Designating Party of such breach or
28 threatened breach;

1 c. any person who authored or was the direct recipient of a document
2 or thing marked “Confidential - Attorney’s Eyes Only”;

3 d. court reporters and videographers in this Proceeding (whether at
4 depositions, hearings, or any other proceeding); and

5 e. the Court.

6 9. Confidential Materials shall be used by the persons receiving them only
7 for the purposes of preparing for, conducting, participating in the conduct of, and/or
8 prosecuting and/or defending the Proceeding, and not for any business or other
9 purpose whatsoever.

10 10. Any Party to the Proceeding (or other person subject to the terms of this
11 Protective Order) may ask the Court, after appropriate notice to the other Parties to the
12 Proceeding, to modify or grant relief from any provision of this Protective Order.

13 11. Entering into, agreeing to, and/or complying with the terms of the
14 Stipulation, the proposed protective order, and this Protective Order shall not:

15 a. Alter, limit, prejudice, or waive any right, privilege or protection
16 otherwise available to any Party with respect to the discovery of matters, including but
17 not limited to any Party’s right to assert the attorney-client privilege, the attorney
18 work product doctrine, or other privileges, or any Party’s right to contest any such
19 assertion;

20 b. Alter, limit, prejudice, or waive any right of any Party or person to
21 object to the use, relevance, or admissibility at trial or otherwise of any material,
22 whether or not designated in whole or in part as Confidential Material governed by
23 this Protective Order;

24 c. operate as an admission by any person that any particular
25 Document, Testimony or Information marked with a Designation contains or reflects
26 trade secrets, proprietary, confidential or competitively sensitive business,
27 commercial, financial or personal information;

1 d. be construed to preclude either Party from asserting in good faith
2 that certain Confidential Materials require additional protection. The Parties shall
3 meet and confer to agree upon the terms of such additional protection; or

4 e. prejudice in any way the right of any Party (or any other person
5 subject to the terms of this Protective Order):

6 i. to seek a determination by the Court of whether any
7 particular Confidential Material should be subject to protection as a particular
8 Designation under the terms of this Protective Order; or

9 ii. to seek relief from the Court on appropriate notice to all
10 other Parties to the Proceeding from any provision(s) of this Protective Order, either
11 generally or as to any particular Document, Material or Information.

12 12. Absent further Order of the Court, this Protective Order applies even to
13 any party to the Proceeding who has not executed the Stipulation as of the time it is
14 presented to the Court for approval. Having said that, any party to the Proceeding
15 who has not executed the Stipulation as of the time it is presented to the Court for
16 approval may thereafter become a Party to the Stipulation by its counsel's signing and
17 dating a copy thereof and filing the same with the Court, and serving copies of such
18 signed and dated copy upon the other Parties to the Stipulation. Until any party to this
19 Proceeding, newly joined or otherwise, has executed and filed with the Court an
20 executed copy of the Stipulation they shall not have access to Confidential Material.

21 13. Any Information that may be produced by a non-Party witness in
22 discovery in the Proceeding pursuant to subpoena or otherwise may be designated by
23 such non-Party with a Designation under the terms of this Protective Order, and any
24 such Designation by a non-Party shall have the same force and effect, and create the
25 same duties and obligations, as if made by one of the undersigned Parties hereto. Any
26 such Designation shall also function as consent by such producing Party to the
27 authority of the Court in the Proceeding to resolve and conclusively determine any
28

1 motion or other application made by any person or Party with respect to such
2 designation, or any other matter otherwise arising under this Protective Order.

3 14. If any person subject to this Protective Order who has custody of any
4 Confidential Material receives a subpoena or other process (“Subpoena”) from any
5 government or other person or entity demanding production of Confidential Material,
6 the recipient of the Subpoena shall promptly give notice of the same by electronic
7 mail transmission, followed by either express mail or overnight delivery to counsel of
8 record for the Designating Party, and shall furnish such counsel with a copy of the
9 Subpoena. Upon receipt of this notice, the Designating Party may, in its sole
10 discretion and at its own cost, move to quash or limit the Subpoena, otherwise oppose
11 production of the Confidential Materials, and/or seek to obtain confidential treatment
12 of such Confidential Materials from the subpoenaing person or entity to the fullest
13 extent available under law. Absent express written consent of the Designating Party,
14 the recipient of the Subpoena may not produce any Documents, Testimony or
15 Information pursuant to the Subpoena prior to the date specified for production on the
16 Subpoena.

17 15. If, after execution of the Stipulation, any Confidential Material submitted
18 by a Designating Party under the terms of the Stipulation or Protective Order is
19 Disclosed by a non-Designating Party to any person other than in the manner
20 authorized by this Protective Order, the non-Designating Party responsible for the
21 Disclosure shall bring all pertinent facts relating to the Disclosure of such Confidential
22 Materials to the immediate attention of the Designating Party.

23 16. The Stipulation was entered into without prejudice to the right of any
24 Party to knowingly waive the applicability of the Stipulation and Protective Order to
25 any Confidential Materials designated by that Party.

26 17. Where any Confidential Materials, or Information derived from
27 Confidential Materials, is included in any motion or other proceeding, the same shall
28

1 be separately filed provisionally under seal with the clerk in accordance with Local
2 Rule 79.5.

3 18. The Parties shall meet and confer regarding the procedures for use of
4 Confidential Materials at trial and shall move the Court for entry of an appropriate
5 order.

6 19. The Stipulation and Protective Order shall continue to be binding after
7 the conclusion of this Proceeding and all subsequent proceedings arising from this
8 Proceeding, except that a Party may seek the written permission of the Designating
9 Party or may move the Court for relief from the provisions of the Stipulation and
10 Protective Order. To the extent permitted by law, the Court shall retain jurisdiction to
11 enforce, modify, or reconsider the Stipulation and Protective Order, even after the
12 Proceeding is terminated.

13 20. Upon written request, after the settlement or other termination of the
14 Proceeding, including all appeals and/or remands, the Parties who executed the
15 Stipulation shall either (a) promptly return to counsel for each Designating Party all
16 Confidential Materials and all copies thereof (except that counsel for each Party may
17 maintain in its files, in continuing compliance with the terms of this Protective Order,
18 all work product, and one copy of each pleading filed with the Court and one copy of
19 each deposition together with the exhibits marked at the deposition), (b) agree with
20 counsel for the Designating Party upon appropriate methods and certification of
21 destruction or other disposition of such Confidential Materials, or (c) as to any
22 Documents, Testimony or other Information not addressed by sub-paragraphs (a) and
23 (b), file a motion seeking a Court order regarding proper preservation of such
24 Materials. To the extent permitted by law the Court shall retain continuing
25 jurisdiction to review and rule upon the motion referred to in sub-paragraph (c) herein.

26 21. It has been agreed that after the Stipulation and proposed protective order
27 were signed by counsel for all Parties, the same would be submitted to the Court for
28 approval. Counsel have agreed to be bound by the terms of the Stipulation and

1 proposed protective order with regard to any Confidential Materials that have been
2 produced before the Court took action on the proposed protective order and signed the
3 Protective Order.

4 22. The Parties and all signatories to the Stipulation have agreed to be bound
5 by the Stipulation and proposed protective order pending approval and entry by the
6 Court of a protective order.

7 23. The Parties have agreed that in the event that the Court modified the
8 Stipulation and proposed protective order, or in the event that the Court entered a
9 different protective order, they would be bound by the Stipulation and proposed
10 protective order until such time as the Court entered a different order. It is the Parties'
11 intent to be bound by the terms of the Stipulation and proposed protective order
12 pending entry of a protective order so as to allow for immediate production of
13 Confidential Materials under the terms therein.

1 EXHIBIT A

2 ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

3
4 I, _____ [print or type full name], of
5 _____ [print or type full address], declare under penalty of
6 perjury that I have read in its entirety and understand the Protective Order that was
7 issued by the United States District Court for the Central District of California on
8 October 26, 2017 in the case of WORLDWIDE SUBSIDY GROUP, LLC v.
9 FÉDÉRATION INTERNATIONALE DE FOOTBALL ASSOCIATION, CV14-00013
10 AB (JCx). I agree to comply with and to be bound by all the terms of this Protective
11 Order and I understand and acknowledge that failure to so comply could expose me to
12 sanctions and punishment in the nature of contempt. I solemnly promise that I will
13 not disclose in any manner any information or item that is subject to this Protective
14 Order to any person or entity except in strict compliance with the provisions of this
15 Order. I further agree to submit to the jurisdiction of the United States District Court
16 for the Central District of California for the purpose of enforcing the terms of this
17 Protective Order, even if such enforcement proceedings occur after termination of this
18 action. I hereby appoint _____ [print or type full name] of
19 _____ [print or type full address and telephone
20 number] as my California agent for service of process in connection with this action or
21 any proceedings related to enforcement of this Protective Order.

22
23 Date: _____

24 City and State where sworn and signed: _____

25 Printed name: _____

26 Signature: _____
27
28